
BULLETIN

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July 29, 2004

DIRECTORY

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Affecting Calendar Numbers:

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New Case Filed Up to July 20, 2004

247-04-BZ

B.Q.

122-20 Merrick Boulevard,

north side, bounded by Merrick Boulevard, 125th Avenue, Merrill

CALENDAR

Street and Baisley Boulevard, Block 12516, Lot 57, Borough of Queens. Alt.1#401863765. Proposed enlargement of the second floor of a self-storage facility, to be enlarged entirely within the existing envelope of the building, exceeds the allowable floor area, floor area ratio and rear yard equivalent, is contrary to Z.R.§33-122, §54-31 and §33-283.

COMMUNITY BOARD #12BK

248-04-A B.Q. 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401802279. Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street, is contrary to Section 36, Article 3 of the General City Law.

249-04-BZ B.BK. 205 Parkside Avenue, northwest corner of Parkside Court, between Ocean and Flatbush Avenues, Block 5026, Lot 302, Borough of Brooklyn. Alt.1#301220989. Proposed extension of the residential use from 14 to 46 apartments, the elimination of the commercial use on the first floor, and the erection of a second means of egress at the rear of the existing four story building, which does not comply with the zoning requirements for floor area ratio, open space ratio, open area along the side lot line and parking is contrary to Z.R. § 23-141, §54-31, §23-462 and §25-241.

COMMUNITY BOARD #9BK

250-04-BZ B.BK. 1220 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 54, Borough of Brooklyn. Applic.#301741444. Proposed enlargement of an existing one family dwelling, which does not comply with the zoning requirements for side and rear yards, floor area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

COMMUNITY BOARD #14BK

251-04-A B.Q. 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401947248. Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

252-04-BZ B.BK. 170 North 11th Street, south side, between Bedford and Driggs Avenues, Block 2298, Lot 9, Borough of Brooklyn. Applic.#301764990. Proposed residential conversion, and enlargement of a vacant industrial building, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #1BK

253-04-A B.Q. 102-35 Williams Court, west of Ocean

Avenue, Block 14239, Lot 1184, Borough of Queens. N.B.#401872283. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

254-04-A B.Q. 102-29 Williams Court, west of Ocean Avenue, Block 14239, Lot 1186, Borough of Queens. N.B.#401872274. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

255-04-BZ B.BK. 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn. Alt.1#301764160. Proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a).

COMMUNITY BOARD #15BK

256-04-BZ B.BK. 125 North Tenth Street, aka 61/63 Berry Street, southeast corner, between North 10th and 11th Streets, Block 2297, Lot 1, Borough of Brooklyn. N.B.#301783185. Proposed construction of a six-story residential building, consisting of 87 dwelling units, Use Group 2, and 55 parking spaces, located in an M1-2(R6m1-2) Special northside mixed use zoning district, is contrary to Z.R.§§42-00 and 43-00.

COMMUNITY BOARD #1BK

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

AUGUST 10, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 10, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

COMMUNITY BOARD #13BX

20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.

SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265th and 266th Streets, Block 8777, Lot 31, Borough of Queens.

COMMUNITY BOARD #13

62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49th Street and East 50th Streets, Block 1350, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #6

4-00-BZ

APPLICANT - Agusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an amendment for a previously approved physical culture establishment to extend into the cellar.

AUGUST 10, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday*

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Cop, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens. Applic.#401770570.

101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens. Applic.#401770589.

101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens.

COMMUNITY BOARD #3Q

afternoon, August 10, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

CALENDAR

ZONING CALENDAR

358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4 ½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #12

373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207th Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

COMMUNITY BOARD #7BX

17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24th Street, Block 6829, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #15BK

42-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1264 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #14BK

142-04-BZ

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #3

143-04-BZ

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

COMMUNITY BOARD #3

206-04-BZ

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

AUGUST 17, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 17, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

CALENDAR

SPECIAL ORDER CALENDAR

40-63-BZ

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage. PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8

67-91-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee.

SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

COMMUNITY BOARD #11

383-03-A

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the construction of a new four-story mixed use building with residential, commercial, and community facility uses (Use Group 2, 3, and 6) in an C1-2/R3-2 zoning district, in which does not comply with Zoning Resolution §23-141(b), §23-22, §23-631(b), §23-45, §23-631(b)(4), §25-23, §25-231, §25-72 and §35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111th Avenue and 110th Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

COMMUNITY BOARD #12Q

28-04-BZ thru 35-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #1

155-04-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14

AUGUST 17, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, August 17, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

368-03-BZ

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner., Allen AME Housing Corp., lessee.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district relief from the side yard requirement in connection with the erection of a 2,231 square foot 2-family home as part of an affordable housing project which is contrary to Z.R. section 23-461(b).

PREMISES AFFECTED -

427 Logan Street, east side of Logan Street between Pitkin and Glenmore Avenues, Block 4209, Lot 11, Borough of Brooklyn.

499 Logan Street, east side of Logan Street between Belmont and Pitkin Avenues, Block 4228, Lot 1, Borough of Brooklyn.

1109 Sutter Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4039, Lot 36, Borough of Brooklyn.

842 Glenmore Avenue, Glenmore Avenue between Atkins and Montauk Avenues, Block 4007, Lot 15, Borough of Brooklyn.

CALENDAR

860 Glenmore Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4007, Lot 22, Borough of Brooklyn.

896 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Milford Street, Block 4208, Lot 22, Borough of Brooklyn.

910 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Fountain Avenue, Block 4209, Lot 12, Borough of Brooklyn.

247 Montauk Avenue, east side of Montauk Avenue between Belmont Avenue and Sutter Avenue, Block 4040, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #5BK

128-04-BZ

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004- under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68th Street, southside of East 68th Street, 100 feet west of Third Avenue, Block 1402, Lots 41 & 42 (tent. 42), Borough of Manhattan.

COMMUNITY BOARD #8M

158-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.

SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between

REGULAR MEETING

TUESDAY MORNING, JULY 20, 2004

10:00 A.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 18, 2004, were approved as printed in the Bulletin of May 27, 2004, Volume 89, Nos. 20-21.

SPECIAL ORDER CALENDAR

16-99-BZ

APPLICANT - Eric Palatnik, P.C., for Milton Elbogen, owner.

SUBJECT - Application August 25, 2003- reopening for an extension of time to obtain a Certificate of Occupancy and for an amendment to the previous resolution to amend the interior layout

Avenues "T" and "K", Block 6527, Lot 76, Borough of Brooklyn.

COMMUNITY BOARD #12BK

184-04-BZ

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.

SUBJECT - Application May 3, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37. PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx.

COMMUNITY BOARD #11BX

Pasquale Pacifico, Executive Director

and slightly modify the bulk.

PREMISES AFFECTED - 1116 East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application reopened and amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the rules of practice and procedure and a re-opening to amend the resolution, to extend the time to obtain a Certificate of Occupancy, to amend the interior layout of the Premises and to modify the bulk of the existing building; and

MINUTES

WHEREAS, a public hearing was held on this application on March 10, 2004 after due notice by publication in The City Record, with a continued hearing on May 11, 2004 and June 22, 2004, and then to July 20, 2004 for a decision; and

WHEREAS, the subject application seeks an extension of time to obtain a certificate of occupancy as well as to request minor changes to the previous Board approval; and

WHEREAS, on August 10, 1999, the Board granted a special permit for the subject premises (R2 zoning district) under Z.R. §73-622, permitting the enlargement of an existing one-family dwelling which created new non-compliances with regard to rear yard, floor area ratio and open space ratio; and

WHEREAS, on August 6, 2002, the Board reopened and amended the resolution adopted on August 10, 1999, granting an extension of time to obtain a new Certificate of Occupancy, expiring on August 10, 2001; and

WHEREAS, subsequently, during construction of the home, various changes to the previously approved plans were made, including: (1) an increase in the proposed floor area to 3,447.6 square feet (previously approved at: 3,173.36 square feet); (2) a proposed decrease in the open space to 2,414 square feet (previously approved at: 2,489 square feet); (3) a proposed decrease in the front yard to 17'8" (previously approved at: 17'10.5"); and (4) a proposed increase in the southerly side yard to 5'9.25" (previously approved at: 5'8"); and

WHEREAS, the applicant has also made these additional changes to the previously approved plans: (1) the vestibule at the first floor was slightly enlarged; (2) the open concrete deck at the rear of the home; (3) at the second floor, the two bedrooms were reconfigured as well as the bathroom; (4) at the attic level, there are now two bedrooms, whereas three were previously approved; (5)

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to relief granted."(DOB Application #301141477)

Adopted by the Board of Standards and Appeals, June 20, 2004.

125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Phil Rampulla.

For Opposition: Carole Timko.

ACTION OF THE BOARD - Laid over to August 10, 2004,

also at the attic level there is now a balcony overlooking the master bedroom; and (6) also at the attic level, there is now a flat roof for a patio at the rear.

WHEREAS, the applicant states that when the final survey of the subject premises was completed, it was determined that a prior survey, relied upon by the architect when preparing the previously approved plans, contained minor dimensional errors due to the addition of stucco and the subtraction of aluminum siding, and these errors effect the size of the side yard.

Resolved, that the Board of Standards and Appeals reopens and amends the resolutions, pursuant to Z.R. §§72-01 and 72-22, said resolutions having been adopted on August 10, 1999 and August 6, 2002, so that as amended this portion of the resolution shall read: "to extend the time to obtain a Certificate of Occupancy and to reopen and amend the previous BSA resolution so as to amend the interior layout of the Premises and modify the bulk.; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "August 25, 2003" - (6) sheets and "June 8, 2004" - (1) sheet; and on further condition;

THAT a new Certificate of Occupancy shall be obtained within (12) twelve months from July 20, 2004;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the above conditions and all conditions from prior resolutions shall appear on the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

at 10 A.M., for continued hearing.

120-93-BZ

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.
SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces
PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Sheldon Lobel, Councilmember Archie Spigner and Elisa B. Hwu.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 17, 2004, at 10 A.M., for decision, hearing closed.

MINUTES

95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

7-00-BZ

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Victor Han.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: John W. Carroll.

SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district. PREMISES AFFECTED - 90 Lafayette Street, a/k/a "The New York City Rescue Mission", northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: David Oalmer and Lori Cuisinier.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 10 A.M., for postponed hearing.

380-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

13-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.

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SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181st Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

64-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

130-04-A

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.

SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

67-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

131-04-A

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Jeff Long, Madelon Rosenfeld, Esq.; and Scott Mason.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004,

MINUTES

at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

186-04-A

APPLICANT - Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

Adjourned: 11:30 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, JULY 20, 2004

2:00 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

FOR CORNER LOT FROM 10 FEET TO 5 FEET [IN] RESIDENTIAL ZONE R-2 FOR A 1 FAMILY RESIDENCE, USE GROUP 1 IS CONTRARY TO SECTION 23-45 OF THE NYC ZONING RESOLUTION, THEREFORE IS REFERRED BACK TO THE BOARD OF STANDARDS AND APPEALS FOR VARIANCE."; and

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in The City Record, with continued hearings on June 22, 2004 and then laid over to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R2 zoning district, which does not comply with the zoning requirements for front yard, contrary to Z.R. §23-45; and

WHEREAS, the record indicates that the subject site is located on the southeast corner lot at the intersection of Watchogue Road and Crystal Avenue; and

WHEREAS, the subject zoning lot has a total lot area of 3055 square feet with a frontage of 25 feet along Crystal Avenue and 120 feet along Watchogue Road; and

WHEREAS, the subject application seeks to reduce the minimum required front yard from ten (10) feet to five (5) feet along Crystal Avenue; and

WHEREAS, the applicant represents that compliance with the required front yard regulations would result in a house with a 10 foot depth, which the applicant states is unmarketable; and

WHEREAS, therefore, the Board finds that strict compliance with the provisions of the Zoning Resolution would be impractical; and

WHEREAS, the aforementioned unique physical condition, namely the narrowness of the subject lot in conjunction with the yard

ZONING CALENDAR

229-03-BZ

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....4

Negative: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 27, 2003 acting on Application No. 500602065 reads:

"THE REDUCTION OF FRONT YARD REQUIREMENT

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regulations, creates an unnecessary hardship and practical difficulty in developing the site in conformity with the applicable zoning provision concerning front yards; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the record indicates that the use and bulk of the subject proposal are consistent with the surrounding residential uses; and

WHEREAS, the applicant states that there are several buildings within the 400-foot radius that have similar setbacks to the proposed 5'-0" front yard setback; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor

Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R2 zoning district, which does not comply with the zoning requirements for front yard, contrary to Z.R. §23-45, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 6, 2004"-(6) sheets; and on further condition;

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

288-03-BZ

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway,

impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES - None

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated August 5, 2003 acting on Application No. 401633684 reads in pertinent part:

"Obj. #2 The proposed five (5) story arrangement for the hotel in the C2-2 in R6 Zoning District exceeds the maximum four (4) story limit for the maximum height of a front wall or other portion of a building within the initial setback distance and is contrary to Sec. 33-341 [should read 33-431] ZR;"and

WHEREAS, a public hearing was held on this application on March 9, 2004 after due notice by publication in The City Record, with a continued hearing on April 27, 2004, May 25, 2004, June 15, 2003 and then to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R6/C2-2 zoning district, the construction of a 3-story enlargement to an existing two-story, transient hotel, Use Group 5, which would not conform to the story height/front wall requirements of the underlying zoning district, contrary to Z.R. §33-431; and

WHEREAS, by letter dated May 24, 2004, the applicant withdrew that portion of the original application which sought a variance to allow for the nonconforming floor area ratio of the proposed construction, which was contrary to Z.R. §32-121; and

WHEREAS, by letter dated July 2, 2004, the applicant

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withdrew that portion of the original application which sought a variance for the construction of nonconforming signage; and

WHEREAS, the subject premises is occupied by an existing 19-foot high, two-story hotel with a total floor area of 6,730 square feet; and

WHEREAS, the subject site is bounded by Horace Harding Expressway, Sautell Avenue and Waldron Street and has a total lot area of 9,300 square feet; and

WHEREAS, the proposed development contemplates

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, specifically, the unique shape of the lot and the poor soil conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current applicable zoning regulations; and

WHEREAS, the applicant has submitted an economic analysis demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the owner is able to maximize return on investment by performing a vertical, rather than horizontal, extension of the existing structure because such extension allows for preservation of the existing foundation and retention of the parking facilities; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, pursuant to Z.R. §33-431, the maximum height of a front wall in an R6 district is 60 feet or four stories, and though the proposed building is within the height requirements of the statute, the applicant still requires a waiver for one proposed floor in excess of the number permitted by statute; and

WHEREAS, the applicant represents that the existing parking lot will remain essentially unchanged and therefore not alter conditions affecting the neighboring properties; and

WHEREAS, the applicant has submitted photographic evidence, confirmed by physical inspection of the premises and surrounding neighborhood by a committee of the Board, which indicates that there are several buildings similar or taller in height along Horace Harding Expressway; and

WHEREAS, the Board finds that the bulk and height of the proposed building is compatible with the surrounding built context; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

the construction of a five-story, fifty-one guest room transient hotel, with a complying floor area ratio of 2.0 and a total height of approximately 52 feet; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in constructing a complying building: (1) the triangular shape of the lot; (2) the current disposition of the existing hotel and parking lot on the site; and (3) poor soil conditions that require substantial foundation work and piling; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant amended its application to eliminate waivers that were not warranted, as described above; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, in a R6/C2-2 zoning district, the construction of a 3-story enlargement to an existing two-story, transient hotel, Use Group 5, which does not comply with the story/front-wall height requirements of the zoning district, contrary to Z.R. §33-431, on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 29, 2003" - (1) sheet, "Received May 25, 2004" - (4) sheets and "Received July 2, 2004" - (5) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT no cockloft shall be constructed in the enlarged building;

THAT the above conditions shall be on the certificate of occupancy;

THAT no floor area ratio waiver is being granted by the Board;

THAT all signage shall comply with underlying district regulations;

THAT substantial construction be completed in

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accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31. PREMISES AFFECTED - 1212 East 23rd Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Superintendent, dated August 29, 2003 acting on DOB Application No. 301567052 reads:

"The proposed enlargement of the existing one family residence in an R2 zoning district: (1) increases the degree of non-compliance with respect to floor area ratio exceeding the allowable floor area ratio and is contrary to sections 23-141 and 54-31 of the Zoning Resolution; (2) increases the degree of non-compliance with respect to the open space ratio and is contrary to sections 23-141 and 54-31 of the Zoning Resolution; and (3) increases the degree of non-compliance for the rear yard below 30' and is contrary to sections 23-47 and 54-31 of the Zoning Resolution."

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in The City Record, with continued hearings on April 20, 2004, May 25, 2004 and June 15, 2004, and then to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

302-03-BZ

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

WHEREAS, this is an application under Z.R. §73-622, to permit the proposed erection of a rear yard enlargement to an existing one family dwelling and an extension of the residential use into the attic (Use Group 1) on a lot located in an R2 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio and rear yard, contrary to Z.R. §23-141, §23-47 and §54-31; and

WHEREAS, the subject lot is located on the west side of East 23rd Street, 100' south of Avenue L, and is comprised of one tax lot with a total lot area of approximately 4000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is a detached one family residence that is two stories in height with a cellar; and

WHEREAS, the subject premises falls entirely within the designated area of Community Board #14, Brooklyn; and

WHEREAS, the applicant states that the enlargement of the subject premises will not reduce the size of any non-complying side yards; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed erection of a rear yard enlargement to an existing one family dwelling and an extension of the residential use into the attic (Use Group 1) located in an R2 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application

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marked "Received July 15, 2004"- (11) sheets and "Received July 20, 2004"- (1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT no approval has been given by the Board as to the use and layout of a greenhouse; and any permitted obstructions should be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, July 20, 2004.

342-03-BZ

APPLICANT - Jay Segal (Greenberg Traurig) for Vincent Perazzo, owner; 92-94 Greene Street, LLC, contract vendee.

SUBJECT - Application November 10, 2003 - under Z.R. §72-21 to permit the proposed seven-story building, that will have retail use in its cellar and first floor, and residential use on its upper six floors, Use Groups 2 and 6, located in an M1-5A zoning district, which is contrary to Z.R. §42-14D, §42-00, §42-10 and §43-12.

PREMISES AFFECTED - 92/94 Greene Street, aka 109 Mercer Street, 100' north of Spring Street, Block 499, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 22, 2003 acting on Application No. 103595174 reads, in pertinent part:

- "1. Ground floor retail use not permitted in M1-5A zoning district for a building whose lot coverage exceeds 3,600 S.F. as per Z.R. 42-14D.
2. Residential use is not permitted in New Building in M1-5A zoning as per Z.R. section 42-00, 42-10, and 42-14D.
3. Bulk regulations not provided for residential building in M1-5A zoning district, BSA must provide. (as per Z.R. 43-12 for M1-5);" and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in The City Record, with continued hearings on April 13, 2004, and June 9,

THAT the use and layout of the cellar, along with any permitted obstruction into a required yard, shall be as approved by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

2004 and then to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 2, Manhattan, disapproved this application, and certain civic organizations and individuals opposed it, providing both oral testimony and written submissions in opposition; and

WHEREAS, Assembly Member Glick, State Senator Connor and Council Member Gerson opposed this application; and

WHEREAS, parties opposed to the subject application generally voiced concerns about the alleged negative impact the proposed waivers would have on the character of the neighborhood; specifically, concerns were raised about the compatibility of the proposed height and rear yard equivalent with built conditions, the impact of a single, large ground floor retail use, the obstruction of lot line windows, noise that could potentially result from the recreational use of the rear yard equivalent, and the location of eating and drinking establishments on the ground floor; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a seven-story, mixed-use commercial and residential building on a lot within a M1-5A zoning district, which does not comply with underlying district requirements concerning residential and ground floor retail use, contrary to Z.R. §§42-00, 42-10, and 42-14D; and

WHEREAS, the subject zoning lot is comprised of one tax lot (1) spanning the complete width of the block bounded on the north by Prince Street, on the east by Mercer Street, on the south by Spring Street, and on the west by Greene Street; and

WHEREAS, the lot is within the Cast Iron Historic District, and the proposed building has received a Certificate of Appropriateness ("C of A") from the Landmarks Preservation Commission ("LPC") on January 28, 2002; and

WHEREAS, as a condition of this grant, the applicant will obtain an updated C of A; and

WHEREAS, the site has a lot area of 7,500 square feet and is comprised of a 25' by 200' through lot, with frontage on both Greene and Mercer Streets, and an adjacent 25' by 100' interior lot, with frontage on Greene Street, and is currently used as a public parking lot; and

WHEREAS, the proposed development contemplates the construction of a seven-story building, with retail use on the ground floor and six residential floors, with 15 residential units and no balconies; and

WHEREAS, the second through fifth floors of residential use will also contain mezzanines; and

WHEREAS, the proposed building will have a rear yard equivalent of 55 feet for the through lot portion of the site (and a rear yard of 28 feet for the interior lot portion); and

WHEREAS, a 22 foot setback at the 6th and 7th floors will be

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provided, pursuant to the current C of A; and

WHEREAS, the proposal contemplates approximately 4,800 square feet of retail floor area on the ground floor (as well as cellar level retail space, which does not count as floor area), which is proposed to be divided into three separate commercial spaces, and which will not be occupied by an eating and drinking establishment; and

WHEREAS, the building will be constructed in two sections, one with frontage on Greene Street and one with frontage on Mercer Street; and

WHEREAS, the ground floor and cellar retail space will cover the entire site; and

WHEREAS, the proposed building will have a floor area ratio ("FAR") of 5.0, and will provide a 55 feet rear yard equivalent between the two building sections; and

WHEREAS, the above specifications reflect a decrease in the applicant's original proposal; specifically, the applicant initially proposed a building with a 6.13 FAR, a 40 feet rear yard equivalent, and 18 units with balconies; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site in conformance with the applicable use provisions of the Zoning Resolution: (1) the site's long, narrow shape, which leads to significant increased construction costs as opposed to a regularly shaped property; and (2) the fact that the site is one of the few narrow vacant through lots in the vicinity, and does not possess the benefit of three frontages, which would lower construction costs; and

WHEREAS, opposition to the application claims that the shape of the lot is not unusual and does not cause increased construction costs; and

WHEREAS, the applicant has provided supplementary evidence of the specific dollar amount of increased construction costs associated with the lot's shape; and

WHEREAS, the Board has reviewed this supplementary evidence and finds it sufficient and credible; and

WHEREAS, the Board also finds that the subject lot is one of the few vacant, narrow through lots in the vicinity, and that it is relatively small; and

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformance with the current applicable zoning regulations; and

WHEREAS, applicant has submitted an economic analysis purporting to demonstrate that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, specifically, the economic analysis evaluated a conforming commercial use and determined that such use would not realize a reasonable return; and

WHEREAS, the Board asked the applicant to explain why a 5.0 FAR proposal that includes a 60 feet rear yard equivalent would not be feasible; and

WHEREAS, additionally, opposition raises the following concerns: (1) the possibility of location of one large superstore on the ground floor, (2) the use of the rooftops of the commercial

WHEREAS, in response, the applicant has submitted a letter from its financial expert stating that his analysis does not show a return from 5.0 FAR building with a 55 feet rear yard equivalent, because there would be a loss of floor area at every level of the building which would have to be relocated to the mezzanines, resulting in less overall profit; and

WHEREAS, the Board finds that the FAR relocation analysis of the applicant's financial expert is directly related to the narrowness of the lot frontages and resulting floor plate sizes for both buildings; and

WHEREAS, the applicant, in response to opposition concerns about the financial expert's conclusion regarding a loss of floor area at every level, submitted a breakdown of the square footage that would be lost; and

WHEREAS, the applicant's financial expert has also previously submitted a letter stating that neither a 5.0 FAR, 60' rear yard equivalent, 15 unit scheme nor a 5.0 FAR, 40 feet rear yard equivalent, 12 unit scheme would realize a reasonable return; and

WHEREAS, opposition claims that the comparable sales used by the applicant in its economic analysis understated the market, and also challenges the construction cost estimates in the analysis; and

WHEREAS, the applicant has provided a response to these claims that the Board finds sufficient and credible; and

WHEREAS, the Board finds that because the site is a through lot, underpinning and shoring costs are increased; and

WHEREAS, the Board finds that because the lot is small, the floor plates that would be created could not sustain a viable conforming development; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed mixed-use residential building will not alter the essential character of the neighborhood because: (1) LPC has determined that the proposed building would be appropriate given the context of the street, (2) the sixth and seventh stories of the proposed building would not be visible from Greene or Mercer Streets, (3) the proposed building height is similar to neighboring buildings, (4) the proposed residential units have an average size of 2000 square feet and a minimum unit size of 1200 square feet, (5) no eating and drinking establishments will be located on the first floor or in the cellar, and (6) the rear yard and rear yard equivalents of the proposed building are similar to, or greater than, neighboring lots; and

WHEREAS, opposition claims that the proposed rear yard equivalent, because it falls short of 60 feet, blocks a total of eleven windows and one skylight on adjoining property, and has submitted photographs that purport to support this claim; and

WHEREAS, the applicant states that none of the windows shown in the photographs would be blocked; and spaces for recreational purposes, (3) the installation of windows facing the lot line that would provide greater privacy for Spring Street residences, through the use of opaque or translucent glass,

MINUTES

and (4) a reduction in building height to reduce the effect of shadows on facing residences; and

WHEREAS, the applicant responded by noting that: (1) the maximum square feet available for a single retail establishment would be approximately 5,000 square feet, and a superstore is typically greater than 10,000 square feet, (2) the use of rear yards for recreational purposes is not prohibited in New York City, and the residential occupants of the proposed building should not be treated differently, (3) restrictions on the type of windows is not required by statute and restrictions on the amount of light entering the proposed residential units should not be imposed by the Board, and (4) any reduction in the building height would result in a significant reduction in the value of the affected units; and

WHEREAS, the Board, through its site visit and a review of the submitted land use maps, observes that the proposed building will provide a greater rear yard equivalent than the majority of the buildings on the same block, and that the block also has four six-story buildings, an 8-story building, a 12-story building, and a 14-story building; and

WHEREAS, the Board also observes that the block directly to the east also contains buildings of a greater height than the proposed building; and

WHEREAS, therefore, the Board finds that the neither the building's proposed height nor the 55 feet rear yard equivalent are incompatible with the built conditions in the surrounding neighborhood; and

WHEREAS, the Board also finds that the proposed residential and retail use of the site is appropriate, given that such uses are prevalent in the neighborhood, and that the minimum unit size is typical of the loft dwellings that characterize the neighborhood; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, as noted above, the Board finds that the applicant made significant changes to the proposed building, having reduced the FAR to 5.0 and increasing the rear yard equivalent to 55 feet; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit the construction of a seven-story, mixed-use commercial and residential building on a lot within a M1-5A zoning district which does not comply with underlying district requirements concerning retail and residential use and is contrary to Z.R. §§ 42-00, 42-10, and 42-14D; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 22, 2004" - (6) sheets and "Received July 6, 2004"- (4) sheets; on further condition:

THAT the retail spaces shall be limited to Use Group 6, except that there shall be no eating and drinking establishment located on the ground floor or cellar of the building;

THAT there shall be no single retail establishment occupying more than 10,000 square feet of gross floor area on the ground floor and cellar level;

THAT the open space in the rear yard at the second floor level shall not be common space for the use of all occupants, but instead is restricted to use by those occupants residing on the second floor;

THAT there shall no balconies in the rear yard;

THAT the above conditions shall be placed on the certificate of occupancy;

THAT the applicant will obtain an updated Certificate of Appropriateness from the Landmarks Preservation Commission prior to any building permit being issued by the Department of Buildings;

THAT all mechanical deductions as shown on the plans shall as approved by the Department of Buildings;

THAT all fire safety provisions as shown on the approved plans will be complied with;

THAT substantial construction be completed in accordance with Z.R. §72-23;

THAT interior partitions and layouts as shown on the approved plans for the ground floor, to be occupied by retail space, may be changed without approval of the Board provided that the floor area is not increased;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

389-03-BZ

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.
SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear enlargement, to an existing one family dwelling, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area

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ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24th Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated December 12, 2003, acting on Application No. 301652094, reads in pertinent part:

"The proposed enlargement of the existing one family residence in an R3-2 Zoning District:

1. Increases the degree of non-compliance with respect to floor area ratio and is contrary to sections 23-141 & 54-31 of the Zoning Resolution.
2. Creates non-compliance with respect to the open space and is contrary to section 23-141 of the zoning resolution.
3. Creates non-compliance with respect to the rear yard of less than 30' and is contrary to section 23-47 ZR.
4. Creates non-compliance with respect to lot coverage and is contrary to section 23-141 of the Zoning Resolution.
5. Increases the degree of non-compliance with respect to side yards and is contrary to sections 23-461 & 54-31."

WHEREAS, a public hearing was held on this application on May 25, 2004 after due notice by publication in the City Record, with a continued hearing on June 15, 2004, and then to July 20, 2004 for a decision; and

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit a two-story rear enlargement to an existing single-family dwelling located in an R3-2 Zoning District, which does not comply with floor area ratio, open space, rear and side yard, and lot coverage requirements and is therefore contrary to Z.R. §§23-141, 23-47, 23-461, and 54-31; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board; and

WHEREAS, the applicant states that the subject building is a

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT all parking facilities shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no waiver is granted as to the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

detached two-story, single-family dwelling with 1,833.2 square feet of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the total floor area of the building to 2,873 square feet; and

WHEREAS, the subject premises fall entirely within the confines of Community Board 15 in the borough of Brooklyn; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, Community Board 15, Manhattan, recommends approval of this application; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §73-622 and §73-03, to permit a two-story rear enlargement to an existing single-family dwelling located in an R3-2 Zoning District which does not comply with floor area ratio, open space, rear and side yard, and lot coverage requirements and is therefore contrary to Z.R. §§23-141, 23-47, 23-461, and 54-31, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 16, 2003"-(3) sheets and "June 1, 2004" - (3) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, July 20, 2004.

10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in

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an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74th Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 31, 2003, acting on DOB Application No. 401723266, reads:

"(1) The proposed enlargement requires a modification of Section 43-12 of the Zoning Resolution (Maximum Floor Area Ratio) to permit a building which exceeds the maximum floor area ratio requirements applicable in M1-1 zoning districts.

(2) The proposed enlargement requires a modification of Section 43-26 of the Zoning Resolution (Minimum Required Rear Yards) to permit a building which does not comply with the minimum rear yard requirements applicable in M1-1 zoning districts.

(3)The proposed enlargement requires a modification of Section 43-43 of the Zoning Resolution (Maximum Height of Front Wall and Required Setbacks) to permit a building which does not comply with the height and setback requirements applicable in M1-1 zoning districts.

(4) The proposed enlargement requires a modification of Section 44-20 of the Zoning Resolution (Required Accessory Off-Street Parking for Spaces for Manufacturing, Commercial or Community Facility Uses) to permit a building which does not comply with the off-street parking requirements applicable in M1-1 zoning districts.

WHEREAS, the bt is currently improved with an existing two-story building containing 8,196 sq. ft. of floor area with the following legal uses: factory with off-street loading and unloading and parking for twelve (12) motor vehicles on the first floor; and accessory offices on the second floor; and

WHEREAS, the proposed variance contemplates an enlargement of the existing building to five (5) stories, with an overall zoning floor area of 14,218 sq. ft. (3.8 FAR), and a twelve (12) foot setback at the fifth floor; and

WHEREAS, the proposed variance also contemplates an attended parking garage on the first floor, with a total of twenty-one (21) accessory parking spaces, consisting of eight (8) automobile stackers that can accommodate two cars, and five (5) individual parking spaces; and

WHEREAS, within the subject zoning district, the Zoning Resolution limits a complying building to a 1.0 FAR, and twenty-eight (28) accessory parking spaces are required for the subject proposed building; and

The Applicant must obtain a variance from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in The City Record, with continued hearings on May 25, 2004 and June 22, 2004, and then to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-1 zoning district, the enlargement of an existing building that does not comply with the applicable district regulations governing floor area, rear yards, height, setback and required off-street parking, contrary to Z.R. §§43-12, 43-26, 44-20 and 43-43; and

WHEREAS, Queens Borough President Marshall recommended approval of this application on condition that the applicant agrees to: (1) making arrangements to provide more off-street parking if future development occurs in the area or if a deficit of parking ever becomes an issue for the neighborhood surrounding the site; and (2) using the site for manufacturing and office use as proposed and not solely for office space in the future; and

WHEREAS, Community Board 5, Queens, recommended denial of this application, and made the following allegations in support of the denial: (1) the proposed building would be out of character with the surrounding community, due to its height; (2) the lack of off-street parking could potentially create a negative impact on the surrounding community; and (3) the application requests more than the minimum relief necessary to relieve any hardship associated with site conditions; and

WHEREAS, the subject lot is an interior lot, with approximately 50 feet of frontage on the west side of 74th Street, between 57th Street and Grand Avenue in Elmhurst, Queens, and is comprised of one tax lot with a total area of approximately 3,762 sq. ft; and

WHEREAS, the original application sought a floor area increase to 15,025 sq. ft (3.99 FAR), and a waiver allowing the provision of fifteen (15) accessory parking spaces; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the subject premises is an interior lot that, relative to virtually every other non-residential lot in the subject M1-1 zoning district, is uniquely small (3,762 sq. ft.) and uniquely shallow (74 ft.); (2) these physical conditions prevent construction of a building with the floor area necessary for economically feasible rentals to conforming commercial or industrial uses; (3) the subject premises is not an attractive candidate for retail use because it lacks the foot and automobile traffic, and mass transit presence, of a lot with frontage on Grand Avenue; (4) a complying storage and warehousing building that works economically on a side street would be too large to fit on the subject premises under the currently applicable zoning controls; and

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WHEREAS, the applicant submitted a comparison study of the site and 18 other non-residential, M-zoned properties within a 400 foot radius that demonstrates the extent to which the site is both unique and disadvantaged; specifically, this study showed that: (1) six of the eighteen properties are larger than 9,000 square feet (or about twice the size of the site); (2) eight of the eighteen properties contain between 7,000 square feet and 9,000 square feet; and (3) only four contain less than 7,000 square feet; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant has submitted an economic feasibility study demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, this study demonstrated that: (1) the existing building is too small to provide a reasonable return as the operating costs exceed the rent generating capacity; and (2) buildings with a 2.1 FAR or 3.0 FAR would produce insufficient returns because of an inability to take advantage of economies of scale in the costs of operating the building; and

WHEREAS, in response to Board concerns, the applicant has provided sufficient evidence showing that the lot would not generate a reasonable return for any conforming user in a complying building; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will

WHEREAS, in response to the Queens Borough President's concerns, the applicant: (1) commits to use its best efforts either to provide more off-street parking or to arrange for a reduction in demand by its employees for parking spaces immediately proximate to the site during regular business hours, if the demand for on-street parking within a 5 minute walk of the site exceeds the actual capacity for on-street parking; and (2) commits to using the proposed enlargement pursuant to the variance and approved plans, and understands that Board approval is required in the event the applicant uses the entire building for office use or alters the Board approved plans; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map and concludes that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, in response to Board concerns, the applicant has modified the variance application in the following ways: (1) reducing the overall zoning floor area by 807 square feet; (2) providing a twelve foot setback on the fifth floor to vary the building's roofline and to reduce the impact of its bulk on 74th Street; (3) increasing the number of on-site parking spaces to twenty one; and

WHEREAS, therefore, the Board finds that the proposal is the

provide a reasonable return on investment; and

WHEREAS, the applicant represents that the proposed development will not affect the character of the neighborhood for the following reasons: (1) the proposed building is only ten feet taller than a building that could be developed on this site on an as-of-right basis; (2) the proposed building is located within a zoning district that has no height limit; (3) the proposed building is located across the street from a recently mapped contextual zoning district with a 50 foot height limit and the 58 foot height of the proposed building is not so different from what is permitted on other properties as to be "out of character" with the neighborhood or to create adverse impacts on the community; (4) neither the proposed building's floor area of 14,218 sq. ft. nor its 3,760 square foot footprint is large, given the context of the neighborhood; and

WHEREAS, in response to community concerns regarding the effect of the requested parking waiver, the applicant: (1) prepared a parking study demonstrating that peak parking demand generated by the proposed enlargement would be fifteen parking spaces (for the proposed user), and therefore on-street parking demand, assuming a twenty-one space on-site garage, would be non-existent; and (2) prepared an additional parking study and submitted photographs demonstrating that on-street parking availability remains consistently high in the immediate vicinity of the site regardless of the time of day or the day of the week; and

WHEREAS, the Board finds the applicant's parking studies credible and sufficient, and notes that the studies addressed parking impacts, both potential and existing, related to a nearby school and park; and

minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the applicant's environmental study and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, in an M1-1 zoning district, the enlargement of an existing building that does not comply with the applicable district regulations governing floor area, rear yards, height, setback and required off-street parking, contrary to Z.R. §§43-12, 43-26, 44-20 and 43-43, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 9, 2004" - (3) sheets, "Received June 22, 2004" - (2) sheets, and "Received July 7, 2004" - (1) sheet; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

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THAT any graffiti located in the premises shall be removed within 48 hours;

THAT a minimum of 21 attended accessory parking spaces, to be used for employee parking only (no commercial vehicle parking), shall be provided on-site;

THAT any use of the subject premises exclusively for office use, or any change to the approved plans, requires the prior approval of the Board;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction be completed in accordance with Z.R. §72-23;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

WHEREAS, this is an application under Z.R. §73-244, to permit, in an R6/C2-3 zoning district, the first floor of the subject premises to be converted from a Use Group 6 eating and drinking establishment to a Use Group 12 eating and drinking establishment with entertainment and dancing, which requires a special permit pursuant to Z.R. §§32-21; and

WHEREAS, Community Board 3, Queens, recommends approval of this application; and

WHEREAS, the premises and surrounding area has had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the applicant states that the subject premises is two stories in height with the first floor currently occupied by a cocktail lounge and the second floor currently occupied by offices; and

WHEREAS, the applicant states that proposed total floor area is 3,370 square feet, with a maximum occupancy of 98 persons; and

WHEREAS, the applicant states that there is no cooking on the premises; and

WHEREAS, the application contemplates the construction of a waiting area in the cellar providing a minimum of four square feet for each person admitted; and

WHEREAS, the applicant states that the entrance to the premises is on Roosevelt Avenue and is located within a commercial zone and more than 100 feet to the nearest residence district boundary, which is located on the northerly side of 37th Road; and

WHEREAS, the applicant represents that the site's proximity to

14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated December 16, 2003, acting on Application No. 401685495, reads in pertinent part:

"Proposed Use Group 12 Eating & Drinking Establishment with Entertainment & Dancing in C2-3/R6 is contrary to Sect. 32-21 Z.R."; and

WHEREAS, a public hearing was held on this application on June 8, 2004 after due notice by publication in the City Record, and then laid over to July 20, 2004 for a decision; and

public transportation and parking facilities, and the proposed hours of operation between 8:00 PM and 4:00 AM, will prevent the creation of undue vehicular or pedestrian congestion on local streets; and

WHEREAS, the applicant maintains that the proposed use will not impair the character or the future use or development of the surrounding residential and mixed use neighborhood because the subject premises is currently used as a Use Group 6 eating and drinking establishment and Roosevelt Avenue is primarily a commercial district; and

WHEREAS, the applicant states that the proposed use will not cause the sound level of any affected conforming residential use to exceed the limit set forth in any applicable provision of the New York City Noise Control Code because the walls have been constructed of masonry and brick with a thickness of 8" to 12", the inside walls are covered with sheetrock and insulation batts, and at least 6" of sound deafening has been installed in the rear wall and ceiling; and

WHEREAS, the applicant represents that the instant application has been made jointly by the owner of the building, who has authorized the filing of this application, and the operator of the proposed establishment; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. §73-244; and

WHEREAS, the Board has reviewed the plans and notes that the proposed building will be sprinklered on the first floor and cellar

MINUTES

and equipped with a fire alarm system connected to the central station, and that the applicant will comply with all required fire safety measure as shown on the approved plans; and

WHEREAS, the Board finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. §73-03; and

WHEREAS, the Board has conducted an environmental review of the proposed action

and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §73-03 and §73-244, to permit, in an R6/C2-3 zoning district, the first floor of the subject premises to be converted

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, July 20, 2004.

24-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Rachel Edelstein, owner.

SUBJECT - Application February 10, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. §23-141(a), §23-47 and §23-461(a).

PREMISES AFFECTED - 1129 East 27th Street, east side, 220' south of Avenue "K", Block 7627, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #14BK

from a Use Group 6 eating and drinking establishment to a Use Group 12 eating and drinking establishment with entertainment and dancing, which requires a special permit pursuant to Z.R. §§32-21, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 20, 2004"-(1) sheet; and on further condition;

THAT the site shall be maintained free of debris and graffiti;

THAT any graffiti located on the site shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of completion;

THAT compliance with Local Law 58/87 shall be as approved by the Department of Buildings;

THAT all exiting requirements shall be as approved by the Department of Buildings;

THAT all occupancy loads shall be as approved by the Department of Buildings, but in no event shall occupancy shall exceed 98 persons in cellar and on first floor; up to 98 persons occupancy in cellar waiting area shall be non-simultaneous occupancy with first floor;

THAT the fire alarm and sprinkler system servicing the subject establishment shall be connected to the central station;

THAT all fire safety measures, as shown on the approved plans and as otherwise required by law, are complied with;

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner dated January 27, 2004, acting on Application No. 301693362 reads:

"Extension to existing single family dwelling is contrary to Z.R. §§ 23-141(a) Floor Area Ratio, 23-141(a) Open Space Ratio, 23-47 Rear Yards, and requires a Special Permit from the Board of Standards and Appeals as per §73-622;" and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in The City Record, with continued hearings on June 15, 2004 and then to July 20, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the enlargement of an existing single family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, and rear yard contrary to Z.R. §§23-141(a) and 23-47; and

WHEREAS, Community Board 14, Brooklyn recommends approval of this application; and

WHEREAS, per the Board's request, the applicant has consulted with the Department of Buildings as to the proposed side yards and has obtained a reconsideration dated May 14, 2004,

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which accepts the 1'-6" difference in aggregate side yard widths and the existing line of the porch to establish the line of the house on the South side, as an existing non-compliance, and the North side wall as an existing non-compliance, thus allowing the side yards as proposed; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the applicant represents that the proposed enlargement will conform with the essential character of the neighborhood; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-622.

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

169-04-BZ

APPLICANT - Paul Hastings Janofsky Walker, LLP, for R & M Co. LLC and Martin Zelman, LLC, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §72-21 to permit the proposed re-development of a mixed use building, which does not comply with the zoning requirements for commercial floor area, commercial uses above the second floor, off-street parking and loading berths, is contrary to Z.R. §54-31, §33-121, §33-431, §36-21 and §36-62.

PREMISES AFFECTED - 103-16 Roosevelt Avenue, (103-12/24 Roosevelt Avenue; 103-19/31 41st Avenue), mid-block on a through lot between Roosevelt Avenue, 41st Avenue, National Street and 104th Street, Block 1975, Lot 9, Borough of Queens.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the enlargement of an existing single family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and rear yard, contrary to Z.R. §§23-141(a) and 23-47, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked `Received February 10, 2004' - (9) sheets and `Received June 1, 2004' - (1) sheet; and on further condition;

THAT no waiver is granted herein with regard to the side yards;

THAT there shall be no habitable room in the cellar;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

COMMUNITY BOARD #4Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.
THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 2, 2004, acting on Department of Buildings Application No. 401858520, reads:

"BSA Approval required as per

1. 54-31: (a) the increase in the building's floor area and floor area ratio (Section 33-121); (b) the increase in commercial floor area on the third story and the expansion of the building envelope of a commercial building above elevation +30 (Section 33-431).

2. 53-31: (a) The lack of accessory parking for the floor area created in the enlargement (Section 36-21) and (b) the lack of accessory loading berth for the floor area subject to a use change and the floor area created in the enlargement (section 36-62)"; and

WHEREAS, a public hearing was held on this application on June 22, 2004 after due notice by publication in the City Record; and then to decision on July 20, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Queens Borough President and Community Board 4 recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R6B/C1-2 zoning district, the proposed enlargement of an existing building for retail and commercial space, which does not comply with the zoning requirements for floor area, commercial uses above the second floor,

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accessory parking and accessory loading berth, contrary to Z.R. §§33-121, 33-431, 36-21 and 36-62; and

WHEREAS, the subject premises is a 21,000 square foot through lot with frontage along Roosevelt Avenue/Corona Plaza and 41st Avenue, and is located in a C1-2 local retail overlay within an R6B district; and

WHEREAS, the record indicates that the existing building was constructed in 1927, in compliance and conformance with the then applicable zoning regulations, and was used as a vaudeville theater with ground floor stores; and

WHEREAS, the existing building covers almost the entirety of the lot and contains 45,302 square feet of floor area; and

WHEREAS, the record indicates that the building was originally designed and used primarily as a single live theater, then as a single screen movie theater, and in the late 1970's was converted into two

WHEREAS, the applicant states that prior to the start of the modernization program for the subject premises, the 45,302 square feet of floor area in the building was distributed among its theater, retail and office uses in the following way: the first floor contained 20,685 square feet of floor area, of which 16,995 was theater space and the balance was retail or office space; the second floor contained 13,967 square feet of floor area, of which 8,729 square feet was used by the theater and 5,238 square feet was used as office space; and the third floor contained 10,650 square feet in floor area, of which 5,524 square feet was used by the theater and 5,126 square feet was used as offices; and

WHEREAS, the applicant now seeks to convert the first floor theater space to local retail uses, and to construct new retail and office floor area, virtually all of which will be enclosed within the volume of the theater's original stage space; and

WHEREAS, the instant proposal will increase the degree of non-compliance with regards to floor area ratio from the existing 2.16 to 2.69, increase the commercial floor area on the third story (located above 30 feet), which is contrary to Z.R. §33-431, and create new non-compliances with applicable parking and loading berth regulations; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in constructing the proposed building in compliance with underlying district regulations: (1) it was designed to serve primarily as a theater for live performances, and is functionally obsolete by reason of both its use and its size; and (2) its layout and structure do not provide space which may be used for provision of the loading berth and accessory parking garage required by the Zoning Resolution in connection with modernization plans for the property; and

WHEREAS, the applicant represents that the provision of 38 new accessory parking spaces and one loading berth, as required for the proposed enlargement, would be impractical due to the above conditions; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with current zoning; and

WHEREAS, the applicant has submitted a feasibility study

separate theaters; and

WHEREAS, the applicant notes that a movie theater is a non-conforming use in a C1-2 zoning district and that the existing building is non-complying in regards to floor area, rear yard, height and setback; and

WHEREAS, in 1984, under Calendar No. 349-82-BZ, the Board granted a variance application to permit the legalization of garment manufacturing on the second and third stories in space that had previously contained offices and a Use Group 17 custom dressmaker (second floor) and cabaret (third floor); and

WHEREAS, the applicant states that it is unsure whether this variance was ever used, that there is no manufacturing use within the building at this time, and that the prior variance would be surrendered if the instant application were to be granted; and

demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the area surrounding the site is mixed-use in character, containing commercial, residential, industrial and community facility uses; and

WHEREAS, the applicant represents that the new retail and office space to be located in the proposed building will respond to local market demands, and serve the local residents and commuters; and

WHEREAS, the applicant represents that deliveries to the retail uses on the site will be from 6:00 AM to 9:00 AM on weekday mornings, and will not affect either vehicular traffic or pedestrians; and

WHEREAS, the applicant submitted an on-street parking assessment surveying the parking resources and utilization, which found that sufficient parking capacity exists in the area surrounding the site; and

WHEREAS, the applicant further represents that due to the site's proximity to a subway station and the presence of other storefront local retail uses, most trips generated by the proposed uses would be either pedestrian or by mass transit; and

WHEREAS, the applicant has also demonstrated the impracticality of providing off-street parking within the subject premises; and

WHEREAS, the applicant has provided adequate evidence of the engineering and practical constraints related to placing a loading berth within the building, due to the building's existing structural system and location along Roosevelt Avenue/Corona Plaza; and

WHEREAS, the Board has reviewed this assessment and finds it credible and sufficient; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 on a site previously before the Board, to permit, in an R6B/C1-2 zoning district, the proposed enlargement of an existing building for retail and commercial space, which does not comply with the zoning requirements for floor area, commercial uses above the second floor, accessory parking and accessory loading berth, contrary to Z.R. §§33-121, 33-431, 36-21 and 36-62; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 26, 2004" - (10) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT deliveries to the Walgreens and Pollo Compero establishments (or any successor lessees to the retail spaces within the building they currently occupy) shall only be from 6:00 AM to 9:00 AM on weekdays, and shall take place on 41st Street only, in the designated loading zone; THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT all applicable fire safety measures as shown on the approved plans shall be complied with;

THAT a loading/unloading zone for deliveries on 41st Avenue shall be approved and established by the Department of Transportation prior to the issuance of any final Certificate of Occupancy;

THAT a DOT approved sign be placed at the established loading zone, showing the hours of permitted loading/unloading;

THAT substantial construction will be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

68-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc., owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to permit the proposed conversion of an existing building, which is located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

PREMISES AFFECTED - 649 39th Street, northwest corner of Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 1:30 P.M., for decision, hearing closed.

139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Alfonso Duarte.

For Opposition: Felix Casimir.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 1:30 P.M., for decision, hearing closed.

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199-03-BZ thru 205-03-BZ

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003- under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 114, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Stuart A. Klein.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

208-03-BZ

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003- under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, §33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Stuart Klein.

ACTION OF THE BOARD - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED - 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1,

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Sandy Anagnostov.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

267-03-BZ

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to August 10, 2004, at 1:30 P.M., for deferred decision.

273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of

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Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Stuart Klein.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

306-03-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Emily Simons.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

81-03-BZ

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;
SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and 32-00.

PREMISES AFFECTED - 857 East 169th Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #3

APPEARANCES -

For Opposition: Jimmy Cast.

ACTION OF THE BOARD - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

360-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier, Esq., for Linden & Utica Realty Corp., owner; KFC U.S. Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03 and 73-243 to permit the reestablishment of an expired special permit, previously granted under Calendar No. 257-87-BZ, which permitted a drive-through facility for an eating and drinking establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest corner of Linden Boulevard, Block 4675, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES -

For Applicant: Lori Cuisinier.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

ACTION OF THE BOARD - Laid over to August 10, 2004, at 1:30 P.M., for decision, hearing closed.

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SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

4-04-BZ

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

16-04-BZ

APPLICANT - Snyder & Snyder, LLP c/o Omnipoint Communications, Inc., for Montauk NY, LLC, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application January 27, 2004 - under Z.R. §73-30 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120th Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Robert Gurdioss.

For Opposition: June A. Nurse, Roslyn Ray and Denise Lashley.

ACTION OF THE BOARD - Laid over to September 14,

381-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

2004, at 1:30 P.M., for continued hearing.

125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91st Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: Felix Casimir, A.J. Ardezzzone, Jr., James A. Trent and others.

ACTION OF THE BOARD - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:15 P.M.